

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DONALD LEE MITCHELL,

Defendant-Appellant.

UNPUBLISHED

May 5, 2009

No. 284127

St. Clair Circuit Court

LC No. 07-002044-FH

Before: Sawyer, P.J., and Murray and Stephens, JJ.

MEMORANDUM.

Defendant appeals by right the sentences imposed on his jury convictions of operating a motor vehicle while under the influence of intoxicating liquor-third offense (OUIL 3rd), MCL 257.625, and operating a motor vehicle with a suspended license, MCL 257.904. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that he is entitled to sentencing credit on his minimum term despite the fact that he was on parole at the time he committed the instant offenses. However, he concedes that this issue is controlled by this Court's decision in *People v Filip*, 278 Mich App 635; 754 NW2d 660 (2008). Defendant acknowledges *Filip*'s holding that a parolee who is arrested for a new criminal offense is not entitled to credit for time served in jail on the sentence for the new offense but is instead entitled to have jail credit applied exclusively to the sentence from which parole was granted. This is true even where the defendant is not required to serve additional time on the sentence from which he was paroled. *Id.* at 641-642, citing *People v Seiders*, 262 Mich App 702, 705; 686 NW2d 821 (2004). Defendant apparently filed his appeal to preserve this issue in the event that our Supreme Court granted leave in *Filip* or reversed this Court's decision. However, our Supreme Court has now denied leave in *Filip*. *People v Filip*, 482 Mich 1118; 758 NW2d 279 (2008). Defendant does not discuss how he believes that *Filip* was wrongly decided. Accordingly, defendant has not shown that he is entitled to relief.

Affirmed.

/s/ David H. Sawyer

/s/ Christopher M. Murray

/s/ Cynthia Diane Stephens